

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4881 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

VASUDEVANAND SNATAK ADHYAPAN MANDIR

Versus

STATE OF GUJARAT

Appearance:

NANAVATY ADVOCATES for Petitioners
MR UA TRIVEDI, AGP i/b M/S PATEL ADVOCATES
for Respondent No. 1 & 3
NOTICE SERVED BY DS for Respondent No. 2
MR RAKESH JOHRI with MR HB SHETHNA for Resp No. 4

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 07/09/1999

ORAL JUDGEMENT

The petition was admitted on 8.7.1999 and notice
as to interim relief was issued.

In the facts and circumstances of the case, the
petition is taken up for final hearing today.

2. Petitioner No. 1 is a public trust which submitted an application to the State Government for permission to start the course of Diploma in Basic Education from academic year 1998-1999. By Government Resolution dated 4.9.1998 (Annexure "A"), the State Government granted permission for running the aforesaid course subject to certain terms and conditions. The petitioner-trust accordingly commenced the course, granted admissions to students and then in the month of December, 1998 applied to the examining body i.e. Gujarat State Examination Board for conducting the examination of the students who had undergone the training course. On 23.12.1998, the State Examination Board informed the petitioner-trust that the examination of the students at the petitioner Institution could not be conducted unless recognition was granted by the National Council for Teachers Education through its Western Regional Office at Bhopal. It appears that pursuant to the said intimation, the petitioner-trust sent an application dated 27.1.1999 to the National Council for Teachers Education (respondent No. 4 herein). The said Council sent its team of experts which submitted their report pointing out various deficiencies in the infrastructure, facilities, staff and the admission procedure including the fact that although the minimum qualification prescribed by the National Council was 45% marks at the Bachelor's degree from a recognized University, the petitioner-trust had admitted graduates with only 38% of the aggregate marks and that as against the required qualified teachers, the petitioner-trust had only one qualified teacher and others were not qualified. An intimation pointing out the deficiency was also sent to the petitioner-trust on 23.6.1999 (Annexure R-4/4). The petitioner-trust sent its reply/compliance dated 5.8.1999 (Annexure R-4/5). That representation is going to be considered by respondent No. 4 in the last week of this month.

3. In the meantime, the petitioner-trust persuaded the State Examination Board to conduct the examination of the students who had undergone studies at the petitioner institution for the academic year 1998-99. The State Examination Board agreed to conduct the examination subject to the petitioner-trust obtaining the recognition from the National Council for Teachers Education. That is clear from the letter dated 18.2.1999 (Annexure I to the affidavit on behalf of the State Examination Board-pg. 38). Accordingly, the students appeared at the examination, but their results have been withheld on the ground that the petitioner-trust has not produced the

recognition from the National Council for Teachers Education. The petitioner-trust has, therefore, filed the present petition praying that the respondent-State Examination Board be directed to declare the results of the said examination.

4. The petition is resisted by the State Examination Board through its affidavit in reply and also by the National Council for Teachers Education through its separate affidavit in reply.

5. At the hearing of this petition, Mr ND Nanavati, learned counsel for the petitioners has urged the following contentions :-

(i) Since the petitioner was granted recognition under the State Act i.e. the Gujarat Educational Institutions (Regulation) Act, 1984 and since the State Act will prevail over the Central Act as education is in the concurrent list and the State Act was a prior Act.

(ii) In any case even if the Central Act prevails over the State Act, the petitioner-trust had commenced the course bona fide after obtaining permission from the State Government and even the State Government had not made reference to the requirement of obtaining any recognition from respondent No. 4-National Council for Teachers Education. Hence, the students were admitted and the examination was also held by the State Examination Board. In this view of the matter, the State Examination Board be directed to declare the results.

6. On the other hand, Mr Rakesh Johri, learned counsel for respondent No. 4 National Council for Teacher Education has submitted that in view of the provisions of the National Council for Teacher Education Act, 1993 and particularly Section 16 thereof, it is very clear that no examining body could hold any examination unless the institution concerned has obtained recognition from the Regional Committee of the National Council for Teachers Education under Section 14 or 15 of the said Act. It is submitted that the Central Act prevails in view of the decision of the Apex Court in State of Tamil Nadu v. Adhiyaman Educational and Research Institute, (1995) 4 SCC 104 and the decision of Karnataka High Court in Amrith Educational and Cultural Society, Bangalore Vs. State, AIR 1997 Karnataka 44. The learned counsel has also placed reliance on the decision dated 14.12.1998 of

a Division Bench of this Court in Special Civil Application No. 10240 of 1998.

7. Mr UA Trivedi, learned AGP appearing for the State Government and the State Examination Board has submitted that the permission granted by the State Government as per the Resolution dated 4.9.1998 (Annexure "A") was under the provisions of the State Act of 1984 and it did not absolve the petitioner from obtaining recognition under the Central Act. It is further submitted that the State Examination Board had agreed to conduct the examination as the petitioner-trust had represented that if the National Council for Teachers Education subsequently grants ex post facto recognition for the year 1998-99, but if the examination is not held, the students would lose their valuable year and, therefore, it was only in view of the possibility of such a recognition being granted by the National Council for Teachers Education for the year 1998-99 that the State Examination Board had agreed to conduct the examination but the results have rightly been withheld since recognition has not been obtained by the petitioner-trust.

8. Having heard the learned counsel for the parties, it appears to the Court that there is considerable substance in the submissions made on behalf of the respondent-authorities. There is no dispute about the fact that the course in question i.e. Diploma in Basic Education is a course in which no instructions could have been imparted by an Institution unless it obtained recognition under the National Council for Teacher Education Act, 1993. The provisions of Section 14 of the said Act clearly require that every institution offering or intending to offer a course or training in teacher education on or after the appointed day (i.e. after 17.8.1995) is required to make an application to the Regional Committee of the National Council for Teachers Education for grant of recognition and that if the Regional Committee is satisfied that such institution has adequate financial resources, accommodation, library, qualified staff, laboratory and that it fulfils such other conditions required for proper functioning of the institution for a course or training in teacher education, the Regional Committee may pass an order granting recognition to such institution subject to such conditions as may be determined by the regulations and that if the Regional Committee is of the opinion that such institution does not fulfil the requirements laid down in sub-clause (a), pass an order refusing recognition to such institution for reasons to be

recorded after giving a reasonable opportunity to the extent for making a written representation.

The provisions of the Act, therefore, make it clear that no institution can commence a course in teacher education without getting recognition from the Regional Committee of the National Council for Teacher Education. In the facts and circumstances of this case, the Court is not required to examine the wider question sought to be raised by the learned counsel for the petitioner whether even if the National Council for Teachers Education grants the recognition under the Central Act, whether State Government can still insist for permission under the State Act. In the facts and circumstances of the present case, there is no scope for such a contention being raised because the State Government had granted the permission under the State Act in September, 1998.

9. Similarly, the provisions of Section 16 of the Act leave no room for doubt that no examining body can hold examination for a course in teacher's training unless the institution concerned has obtained recognition from the Regional Committee under Section 14 or 15 of the Central Act. Admittedly, the petitioner-trust had not obtained any recognition from the Regional Committee of the National Council for Teachers Education under the Central Act either at the time of commencement of the course or at the time when the examinations were held by the State Examination Board. As already stated on behalf of the State Examination Board and it is also clear from the documents on record, the State Examination Board was persuaded to hold the examination for the students from the petitioner-trust on a representation that the application was already made to the Regional Committee and that if the recognition were to be granted for the year 1998-99, the students would lose their valuable year if they were not permitted to appear at the examination. The examination was, therefore, conducted subject to the express condition that the petitioner-trust was to obtain recognition from the Regional Committee of the National Council for Teachers Education. That condition not having been fulfilled, the petitioner-trust has no right to dwell upon the fact that the examination was already conducted by the State Examination Board and that the students of the petitioner-trust were permitted to appear at the examination.

10. This Court would like to refer to the decision of this Court in Special Civil Application No. 10240/98 where the concerned institution had admitted the students

for a course in teacher education for the academic year 1997-98 without getting any recognition from the Regional Committee of the National Council for Teachers Education through it had obtained affiliation from the North Gujarat University. There also the plea of ignorance of the relevant provisions of law was pleaded by the students who had undergone the training course for the academic year 1997-98. In that case, even though the Regional Committee ultimately granted recognition to the concerned institution for the academic year 1998-99, the plea of the students to regularize their admissions in the concerned institution for the year 1997-98 was not accepted by this Court and the concerned college and the University were directed that the students who were admitted for the academic year 1997-98 at the time when the college had no recognition be treated as having been admitted for the year 1998-99 and to treat them as regular students. In the facts and circumstances of the present case, however, even such a contention is not available to the petitioner-trust unless and until the Regional Committee of the National Council for Teachers Education-respondent No. 4 herein decides to grant recognition to the petitioner-trust for the academic year 1999-2000 which issue is still pending before the Regional Committee as stated by the learned counsel for the said respondent.

11. In the result, there is no merit in this petition. The petition deserves to be dismissed.

It is, however, clarified that dismissal of this petition shall not come in the way of the petitioner-trust pursuing its application for recognition for the year 1999-2000 and if the Regional Committee of the National Council for Teachers Education gives recognition for the current academic year, dismissal of this petition shall not come in the way of the students admitted by the petitioner institution for the course in the year 1998-99 being considering for admission to the petitioner institution for the current year (1999-2000) on lines of the direction given by this Court in Special Civil Application No. 10240/98.

12. Subject to the aforesaid observations, the petition is dismissed. Rule is discharged. There shall be no order as to costs.

September 6, 1999 (M.S. Shah, J.)
sundar/-